

TEXT OF PROPOSED REGULATIONS

In the following, underline indicates additional added text, and ~~striketrough~~ indicates additional deleted text.

Section 3000. Definitions.

Section 3000 is amended to alphabetically merge the definitions below with those that exist in the regulations.

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Adverse Witness, for the purpose of conducting parole revocation hearings, means a person whose expected testimony supports the violation charged. The Agent of Record should request that the primary adverse witness (victim, on-the-scene police officer, complaining person, etc.) be present at the hearing.

Arrest means the taking of a person into custody, in a case and in a manner authorized by law.

~~Board of Prison Terms (Board)~~ Board of Parole Hearings (Board) means the state agency which is responsible for the administration of paroles for those persons committed to the department under Penal Code section 1168 and those committed under Penal Code section 1170 who also meet the criteria found in Penal Code section 2962.

Child means a person under the age of 18 years.

Collateral Contact means any communication between a Division of Adult Parole Operations staff and another person concerning a parolee.

Control Service means the middle supervision category of a person on parole.

Court Order means a custody determination decree, judgment, or order issued by a court of competent jurisdiction, whether permanent or temporary, initial or modified, that affects the custody or visitation of a child, when issued in the context of a custody proceeding. An order, once made, shall continue in effect until it expires, is modified, is rescinded, or terminates by operation of law.

Department means the California ~~d~~Department of ~~e~~Corrections and Rehabilitation.

Deputy Regional Parole Administrator means the department's administrator within a Division of Adult Parole Operations region.

District Administrator means the department's administrator of a Division of Adult Parole Operations unit, district, or geographical area.

Face-to-Face Contact means an in-person contact with a parolee by Division of Adult Parole Operations staff.

Felony means a crime which is punishable with death or by imprisonment in the state prison. Every other crime or public offense is a misdemeanor except those offenses that are classified as infractions.

Field Contact means face-to-face contact by Division of Adult Parole Operations staff with a parolee away from the parole office or office parking area.

General Conditions of Parole mean general rules regarding behavior required or prohibited during parole for all parolees.

~~Hearing Agent means the parole and community services division employee responsible for application of specific procedures pertaining to the parole revocation hearing process; the primary liaison between the parole and community services division and the releasing authorities in matters and procedures pertaining to the parole revocation hearing process.~~

~~Hearing Coordinator means an employee assigned to coordinate the revocation process within an institution or a parole and community services division region.~~

High Control means the highest supervision category of a person on parole.

Hold means to retain an inmate or parolee, who is under the ~~director's~~ Secretary's jurisdiction, in custody at an institution or a local detention facility in response to the legal request of a law enforcement or correctional agency representative.

Inmate means a person under the jurisdiction of the ~~director~~ Secretary and not paroled. Inmate and prisoner are synonymous terms.

Legal process means a writ, summons, warrant or mandate issued by a court.

Our Hold Only (OHO) means a parolee is in custody under a Penal Code section 3056 parole hold and has no other charges or detainers pending.

Parole Agent means an employee and his/her supervisors in the department who are assigned to supervise those persons released from incarceration to the supervision of the ~~parole and community services~~ Division of Adult Parole Operations.

Parolee Field File means a working file maintained by a parole unit office containing information about a parolee and his/her his or her current parole.

Parole Hold means authorization by a departmental employee to hold a parolee in custody pursuant to section 3056 of the Penal Code.

Prisoner means a person in custody of the ~~director~~ Secretary and not paroled. Prisoner and inmate are synonymous terms.

Regional Parole Administrator means the department's administrator of a ~~parole and community services~~ Division of Adult Parole Operations ~~geographical~~ region.

Residence means one or more addresses at which a person regularly resides, regardless of the number of days or nights spent there, such as a shelter or structure that can be located by a street address, including, but not limited to, houses, apartment buildings, motels, hotels, homeless shelters, and recreational and other vehicles.

Serious Offense, for the purpose of conducting parole revocation hearings, refers to any felony listed in section 1192.7 (c) of the Penal Code.

Special Conditions of Parole means conditions of parole placed by the Board of Parole Hearings or Division of Adult Parole Operations and restricted to the individual.

Unit Supervisor means a supervisor of case-carrying parole agents in the ~~parole and community services~~ Division of Adult Parole Operations.

Violent Offense, for the purpose of conducting parole revocation hearings, refers to any felony listed in section 667.5 (c) of the Penal Code.

Writ means a court order in writing, requiring the performance of a specified act, or giving authority to have it done.

Note: Authority cited: Sections 2717.3, 5058 and 5058.3, Penal Code; Section 10115.3(b), Public Contract Code; and Sections 4525(a), 4526 and 14837, Government Code. Reference: Sections 186.22, 243, 314, 530, 532, 646.9, 653m, 832.5, 1389, 2080, 2081.5, 2600, 2601, 2700, 2717.1, 2717.6, 2932.5, 4570, 5009, 5054, 5068, and 7000 et seq., Penal Code; Sections 1132.4 and 1132.8, Labor Code; Sections 10106, 10108, 10108.5, 10115, 10115.1, 10115.2, 10115.3 and 10127, Public Contract Code; and Section 999, Military and Veterans Code; Section 391, Code of Civil Procedure; Section 297.5, Family Code; In re Bittaker, 55 Cal.App. 4th 1004, 64 Cal. Rptr. 2d 679; and Section 11007, Health and Safety Code.

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3001. Subject to Regulations.

Section 3001 is amended to read:

Regardless of commitment circumstances, every person confined or residing in facilities of the department is subject to the rules and regulations of the ~~director~~ Secretary, and to the procedures established by the warden, superintendent, or ~~parole region~~ regional parole administrator responsible for the operation of that facility. Persons on parole or civil addict outpatient status are subject to such ~~director's~~ Secretary's rules, regulations and parole region procedures as may be applicable to such persons.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code.

3041.3. Inmate/Parolee Access to Computers.

Subsections 3041.3(a) through 3041.3(m) are unchanged.

Subsection 3041.3(n) is amended to read:

(n) Each parole office shall ensure the security of computers, LANs, and modems or other communication devices used in that office from unauthorized access by parolees. The ~~Administrator~~ unit supervisor of each parole office shall be responsible for enforcement of this subsection.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 502, 502.7 and 2702, Penal Code.

3075.3. Discharge Certificates.

Subsection 3075.3(a) is amended to read:

(a) ~~CDC~~ CDCR Form 163 (Rev. ~~7/92~~ 10/06), Certificate of Discharge, which is incorporated by reference, shall be issued to each person who has completed their commitment to the department.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5054, Penal Code.

3294.5. Inmate Name Change.

Subsections 3294.5(a) through 3294.5(c) are unchanged.

Subsection 3294.5(d) is amended to read:

(d) If the ~~R~~regional ~~P~~parole ~~A~~administrator finds reasons that exist to warrant a parolee's request for a name change, then the ~~R~~regional ~~P~~parole ~~A~~administrator shall forward the request to the ~~Assistant~~ ~~D~~deputy ~~D~~director, ~~Parole and Community Services Division (P&CSD)~~ Division of Adult Parole Operations (DAPO), along with a memorandum listing the reasons for recommending approval. A copy of the memorandum shall be placed in the miscellaneous section of the parolee's central file.

Subsection 3294.5(e) is amended to read:

(e) If the Institutions Division ~~R~~regional ~~A~~administrator or the ~~Assistant~~ ~~D~~deputy ~~D~~director, ~~P&CSD~~ DAPO, agrees with the recommendation to approve the request for a name change of an inmate or parolee, a letter shall be forwarded to the court explaining why the department is recommending approval for a name change, along with the inmate/parolee's request. A copy of the letter shall be placed in the miscellaneous section of the inmate/parolee's central file.

Subsection 3294.5(f) is amended to read:

(f) If the Institutions Division ~~R~~regional ~~A~~administrator or the ~~Assistant~~ ~~D~~deputy ~~D~~director, ~~P&CSD~~ DAPO, denies the request for a name change of an inmate or parolee, a letter shall be forwarded to the inmate or parolee with the reasons for denial. A copy of the letter shall be placed in the miscellaneous section of the inmate/parolee's central file.

Subsections 3294.5(g) through 3294.5(k) are unchanged.

Subsection 3294.5(l) is amended to read:

(l) If the court ordered name change is received without departmental approval, this clearly indicates that the inmate/parolee has not followed proper procedure to legally change his/her name. In this case, the ~~W~~warden or ~~R~~regional ~~P~~parole ~~A~~administrator shall notify the issuing court in writing that the name

change cannot legally be changed without the ~~Director's~~ Secretary's approval pursuant to the Code of Civil Procedure, section 1279.5. A copy of the letter shall be placed in the miscellaneous section of the inmate/parolee's central file and a copy shall be provided to the inmate/parolee.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; and Section 1279.5, Code of Civil Procedure.

3356. Health Care Treatment for Parolees.

Subsection 3356(a) is unchanged.

Subsection 3356(b) is amended to read:

(b) Facility Treatment. When a parolee requires medical, surgical, psychiatric, or dental care of an emergency nature and community resources are not available or lack the security required for retention and treatment of the parolee, the ~~parole~~ district parole administrator or their designee may arrange with the facility chief medical or dental officer or the chief psychiatrist for the parolee's return to department custody for emergency treatment.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3369.5. Research.

Subsection 3369.5(a) is amended to read:

(a) No research shall be conducted on inmates/parolees without approval of the research advisory committee established to oversee research activities within the department. Members of the research advisory committee shall be named by the ~~Director~~ Secretary, and may include departmental staff and nondepartmental persons who are community academic representatives engaged in criminal justice research.

Subsections 3369.5(b) through 3369.5(d) are unchanged.

Note: Authority cited: Sections 3509.5, 3517 and 5058, Penal Code. Reference: Sections 3500 through 3524 and 5054, Penal Code.

3370. Case Records File and Unit Health Records Material – Access and Release.

Subsections 3370(a) thru 3370(d) are unchanged.

Subsection 3370(e) is amended to read:

(e) No case records file, unit health records, or component thereof shall be released to any agency or person outside the department, except for private attorneys hired to represent the department, the office of the attorney general, the ~~Board of Prison Terms~~ Board of Parole Hearings, the Inspector General, and as provided by applicable federal and state law. Any outside person or entity that receives case records files or unit health records is subject to all legal and departmental standards for the integrity and confidentiality of those documents.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 2081.5, 5054 and 6126.5, Penal Code; Sections 56.10, 1798.24 and 1798.40, Civil Code; and Code of Federal Regulations, Title 45, Sections 164.512 and 164.524.

3376.1 Departmental Review Board.

Subsection 3376.1 is amended to read:

The Department Review Board (DRB) provides the ~~director's~~ Secretary's final review of classification issues, which are referred by an institution head for a resolution of decision at the headquarters level. The DRB decision serves as the ~~director's~~ Secretary's level decision, which is not appealable and concludes the inmate/parolee's departmental administrative remedy of such issues.

Subsection 3376.1(a) is unchanged.

Subsections 3376.1(a)(1) and (a)(2) are amended to read:

- (1) The ~~deputy~~ director or ~~an assistant~~ deputy director of the adult institutions division (chairperson).
- (2) The ~~deputy~~ director or ~~assistant~~ deputy director of the ~~parole and community services d~~Division of Adult Parole Operations.

Subsections 3376.1(a)(3) through 3376.1(d)(3) are unchanged.

Subsection 3376.1(d)(4) is amended to read:

- (4) A difference between a ~~Board of Prison Terms'~~ Board of Parole Hearing's program placement order and the department's policies cannot be resolved.

Subsection 3376.1(d)(5) through 3376.1(e) are unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code; Sandin v. Connor (1995) 515 U.S. 472; and Madrid v. Gomez (N.D. Cal. 1995) 889 F.Supp. 1146.

3382. Incident Reports.

Subsection 3382(a) is amended to read:

- (a) Any event or activity occurring within the jurisdiction of institutions or parole regions which may be of immediate interest or concern to the department, or of special interest to other governmental agencies, or the news media will be immediately reported by institution and region staff by telephone to the office of the ~~director~~ Secretary or to the departmental duty officer. Wardens and superintendents will submit a written report of the incident to the ~~director~~ Secretary within ~~72~~ 24 hours of the verbal notice. Parole regions will submit written reports ~~as instructed~~ in accordance with timelines established by the ~~Deputy~~ Director, ~~Parole and Community Services Division of Adult Parole Operations~~.

Subsection 3382(b) is amended to read:

- (b) Incidents to be reported include, but are not limited to, all serious crimes such as homicide or severe assaults upon or by inmates, parolees or employees, escapes, and sensational activities or events such as

riots, strikes, demonstrations, disturbances, or disruption of essential services, and significant damage or destruction of state property.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3383. State of Emergency.

Subsection 3383(a) is amended to read:

(a) A state of emergency shall exist when the institution head or ~~R~~regional ~~P~~parole ~~A~~administrator/~~A~~ssistant ~~D~~deputy ~~D~~irector, ~~Parole and Community Services Division of Adult Parole Operations (P&CSD)-(DAPO)~~, temporarily suspends any nonessential operation, procedure, service or function, and the normal time limits or schedules for such activity in order to prevent, contain or control a disturbance.

Subsection 3383(b) is amended to read:

(b) Approval of the ~~director~~ Secretary or ~~director's~~ Secretary's designee is required when:

Subsections 3383(b)(1) through (3) are unchanged.

Subsection 3383(c) is amended to read:

(c) During a state of emergency the institution head or ~~R~~regional ~~P~~parole ~~A~~administrator/~~A~~ssistant ~~D~~deputy ~~D~~irector, ~~P&CSD DAPO~~, may authorize the postponement of nonessential administrative decisions, actions, and the normal time requirements for such decisions and actions as deemed necessary because of the emergency. This may include, but is not limited to, classification committee hearings, disciplinary proceedings, and the review and action on appeals.

Subsection 3383(d) is amended to read:

(d) During a state of emergency, the cause and effect shall be constantly reviewed and evaluated by the institution head or ~~R~~regional ~~P~~parole ~~A~~administrator/~~A~~ssistant ~~D~~deputy ~~D~~irector, ~~P&CSD DAPO~~, through appropriate staff. The facility's affected areas, programs, and operations shall be returned to normal as soon as the institution head or ~~R~~regional ~~P~~parole ~~A~~administrator/~~A~~ssistant ~~D~~deputy ~~D~~irector, ~~P&CSD DAPO~~, determines that it is safe to do so. Upon termination of a state of emergency, the normal schedules and time frames for administrative decisions and actions pertaining to affected inmates will resume.

Note: Authority cited: Section 5058, Penal Code; and Section 11152, Government Code. Reference: Section 5054, Penal Code.

3393. Uniforms, Badges, and Insignia.

Subsection 3393(a) is amended to read:

(a) All peace officer personnel shall wear uniforms and insignia as prescribed by the ~~director~~ Secretary, unless specifically ~~excepted~~ exempted by the warden, superintendent, or regional parole administrator.

Personnel shall not wear a department uniform into any bar, tavern, gambling hall or night club, except in the performance of assigned duties.

Subsection 3393(b) is amended to read:

(b) Uniformed peace officer personnel shall wear the official department badge as a standard item of uniform attire. Exceptions may be authorized by the warden, superintendent, regional parole administrator, or department division head to whom such employees report. All personnel appointed to positions designated as peace officers in Section 3291 are authorized to possess and carry an official California Department of Corrections and Rehabilitation badge. It is unlawful for any person, including a department employee who is not a peace officer, to wear, exhibit or use the department badge or a facsimile of the badge without specific authority to do so.

Subsection 3393(c) is amended to read:

(c) All uniformed peace officer personnel shall wear a clearly displayed nameplate as a standard item of uniform attire. Any employees having contact with inmates and the general public may also be required to wear a nameplate while on duty, as determined by the warden, superintendent, division head, or ~~parole~~ regional parole administrator to whom the employee reports.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 830.10, Penal Code.

3401. Employee and Inmate/Parolee Relations.

Subsections 3401(a) and 3401(b) are unchanged.

Subsection 3401(c) is amended to read:

(c) If an employee is contacted by any inmate, parolee or member of an inmate's or parolee's family, other than under circumstances specified in (e) below, the employee shall immediately notify, in writing, the employee's institution head or ~~deputy/assistant~~ director/assistant secretary of that fact.

Subsection 3401(d) is amended to read:

(d) Any employee asked, coerced or otherwise contacted by any person to transmit, take or relay any message, item or substance, either to or from, any inmate, parolee or member of an inmate's or parolee's family, by other than approved means or circumstances, shall immediately notify, in writing, their institution head or ~~deputy/assistant~~ director/assistant secretary of that fact.

Subsections 3401(e) through (e)(3) are unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3402. Central File.

Subsection 3402(a) is amended to read:

(a) Within the scope of their assigned duties, employees are encouraged to consult an inmate's central file for assistance in better understanding the inmate. The contents of the inmate's file ~~is~~ are private and

privileged information. It will not be discussed with other persons except as is necessary for professional reasons, and will not be the subject of banter between employees or between employees and the inmate to whom it pertains or with other inmates. Information in an inmate's central file may be confidential by law or for reasons relating to institution security and the safety of persons. Such confidential or restricted information must not be disclosed to persons who are not authorized by law and departmental policy and procedures to receive such information.

Subsection 3402(b) is amended to read:

(b) The central file of a parolee or an inmate may not be removed from the ~~parole region office~~ appropriate case records office or an institution without the prior knowledge and approval of the supervising records officer who is responsible for the control and maintenance of the file. Temporary transfer of a central file to another agency for any reason also requires the prior approval of the supervising records officer.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3405. Legal Assistance to Inmates and Parolees.

Section 3405 is amended to read:

Employees must not assist an inmate or parolee in the preparation of any legal document, or give any form of legal advice or service, except as specifically authorized by the warden, superintendent or regional parole administrator. Employees should help inmates and parolees to find qualified assistance for their legal problems.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3406. Committed Relatives and Friends of Employees.

Section 3406 is amended to read:

If an employee becomes aware that any relative or person with whom the employee has or has had either a personal or business relationship, has been committed or transferred to the jurisdiction of the department, the employee shall notify in writing, employee's institution head or ~~deputy/assistant~~ appropriate director/assistant secretary of that fact.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3407. State Supplies.

Section 3407 is amended to read:

Employees may not consume or use food or supplies purchased or produced for an inmate or parolee's use, except as required by the employee's assigned duties or as specifically approved by the warden or superintendent or regional parole administrator.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3408. Vehicles.

Section 3408 is amended to read:

Employee must use state vehicles for official business only and as specifically authorized by the warden, superintendent, or regional parole administrator. Employees must not allow an inmate to drive a vehicle on a public road, except in extreme emergency, and must report such instance to the employee's supervisor immediately following the emergency.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3410. Intoxicants and Drugs.

Subsection 3410(a) is unchanged.

Subsection 3410(b) is amended to read:

(b) It is the duty of every employee to promptly report to the warden, superintendent, or regional parole administrator the presence of any person, including an employee on duty, in any correctional facility ~~who~~ that is or appears to be under the influence of intoxicants or drugs.

Subsection 3410(c) is amended to read:

(c) Employees must not bring any kind of alcoholic beverage or any kind of drugs upon the grounds of an institution, community correctional center or camp unless specifically authorized to do so by the warden, superintendent or regional parole administrator. Such authorization may be given for medical or religious sacramental purposes, and for possession by employees who live in state-owned residences outside the security area for their personal use within their assigned residences.

Subsection 3410(d) is amended to read:

(d) Any employee obtaining for, or delivering to an inmate or parolee any alcoholic preparations of any kind, or a drug of any type, except as specifically authorized by the warden, superintendent or regional parole administrator, will be subject to dismissal from service and to prosecution by the district attorney.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3411. Reporting of Arrest or Conviction, Change in Weapons or Driving Status.

Section 3411 is amended to read:

If an employee is arrested or convicted of any violations of law, the employee must promptly notify the institution head or ~~deputy/assistant~~ appropriate director/~~assistant~~ secretary of that fact. Misconduct which impairs an employee's ability to do his or her job, or affects or involves the department, may be cause for disciplinary action. Suspension, revocation, or restrictions to an employee's driving privilege which prohibit the employee from performing any of their job duties, shall be reported to the institution head or ~~deputy/assistant~~ deputy appropriate director/~~assistant~~ secretary. An employee shall also report any change

in eligibility to own, possess and have custody/control of any firearm or other weapon authorized by the department.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; and Sections 921, 922 and 926, Title 18, United States Code.

3414. Identification Card.

Section 3414 is amended to read:

Every employee will be issued a departmental identification card. Employees must, while on duty, carry such card upon their person and produce the card upon request. An employee must promptly report the loss of his or her identification card to the warden or superintendent, or regional parole administrator.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3430. General Policy.

Section 3430 is amended to read:

To successfully meet the challenges and discharge the responsibilities of the department, each institution and parole region, requires a skilled and dedicated staff of employees, working in close cooperation with a high degree of morale. The department will encourage a high esprit de corps by enabling employees to improve their skills through training, by constant effort to make working conditions safe and pleasant, and by protecting the rights and privileges of employees under civil service laws and rules. Full information regarding rights and responsibilities of employees under civil service may be found at institution personnel offices, the personnel office of the ~~Parole and Community Services Division~~ of Adult Parole Operations, the departmental personnel office, and the offices of the State Personnel Board.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3432. Hours of Employment.

Subsection 3432 is amended to read:

Hours of employment will be in accordance with state civil service rules. The wardens, superintendents, and regional parole administrators, with the approval of the ~~director~~ Secretary, will determine the hours of employment for employees under their jurisdiction.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3433. Vacations.

Subsection 3433 is amended to read:

Employee vacations will be granted at times convenient to the institution, departmental division, and parole region, subject to the approval of the warden, superintendent, or regional parole administrator.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.